



CLOSED CASE SUMMARY

ISSUED DATE: JULY 7, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0029

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 5.001 - Standards and Duties 10. Employees Shall Strive to be Professional | Not Sustained - Lawful and Proper |
| # 2 | 8.200 - Using Force 1. Use of Force: When Authorized | Not Sustained - Unfounded |

Named Employee #2

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------|
| # 1 | 8.200 - Using Force 1. Use of Force: When Authorized | Not Sustained - Unfounded |

Named Employee #3

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------|
| # 1 | 8.200 - Using Force 1. Use of Force: When Authorized | Not Sustained - Unfounded |

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that Named Employee #1 (NE#1) used unauthorized force when he pulled Community Member #1 (CM#1) off a fence, put CM#1 on the ground, and handcuffed CM#1, causing or exacerbating an injury to CM#1's hand. It was also alleged that NE#1 made an outburst near CM#1 after CM#1's apprehension. It was alleged that Named Employee #2 (NE#2) and Named Employee #3 (NE#3) used unauthorized during CM#1's handcuffing, causing or exacerbating an injury to CM#1's hand.

ADMINISTRATIVE NOTE:

The Seattle Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On January 14, 2023, Witness Supervisor #1 (WS#1), an acting police sergeant, sent an OPA complaint via Blue Team. OPA opened an investigation. OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident report, body-worn videos (BWVs), in-car videos (ICVs), and OPA interviews. NE#1 was a field training officer training NE#3, a probationary officer. NE#1 was in plain clothes and not wearing a BWV because NE#3 was in the "checkout" stage of training, meaning NE#1's primary role was to observe NE#3.



On January 8, 2023, at 4:29 PM, CAD documented that a witness saw CM#1 enter an unoccupied house through a window. CAD also noted that no one was supposed to be inside the house. Witness Officer #1 (WO#1) said that from outside the rear of the house, he saw CM#1 inside, rummaging through dresser drawers. WO#1 broadcasted CM#1's description and awaited backing officers to set up containment.

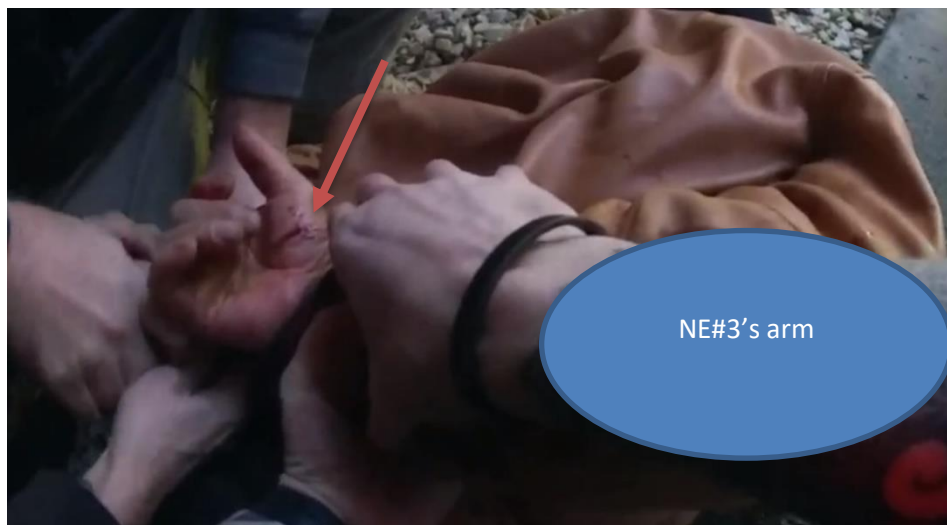
NE#1 and NE#3 arrived at the incident location together. NE#2 came alone. BWV showed several officers at the scene before NE#1 and NE#3 arrived. BWV also showed officers setting up a containment around the house. BWV showed NE#1 and other officers posted at the front and NE#3 at the back. Officers radioed that CM#1 was inside the house. WO#1 announced, "Seattle Police! Come out with your hands up!" WO#1 said CM#1 exited the rear of the house, ran, and jumped a fence. WO#1 chased CM#1.

NE#1's incident report stated CM#1 exited the rear of the house and ran. NE#1 said he chased CM#1. During the pursuit, NE#1 said CM#1 ran through an alleyway and bypassed several officers. NE#1 said he pursued CM#1 to the backyard of a blue house when CM#1 attempted to hop the fence to get into another property. NE#1 said he ran up to CM#1, pulled CM#1 from the fence, placed CM#1 on the ground in the prone position, and secured CM#1 by putting his body weight on CM#1's back. NE#1 said he gained control of CM#1's left arm. NE#1 also said he could not secure CM#1's right arm because CM#1 resisted. NE#1 said he called out to nearby officers for assistance.

NE#3's BWV showed NE#3 searching for CM#1. NE#3 was separated from NE#1 when NE#1 pursued CM#1. NE#3 was alerted to CM#1's location based on NE#1's announcements. BWV showed NE#3 hopped a fence to get into the backyard of the blue house. NE#3's BWV captured NE#1 on top of CM#1. NE#1's left knee was pressed against CM#1's upper back. NE#1's left hand held CM#1's right arm. NE#1 yelled, "Stop resisting! Put your hands behind your back! You are under arrest!"



BWV showed NE#3 assisted with the arrest by grabbing CM#1's right arm and putting it behind CM#1's back. NE#3's BWV showed a laceration on CM#1's right hand.



NE#2 arrived in the backyard as NE#3 assisted with the arrest. NE#2's BWV showed NE#1 and NE#3 handcuffing CM#1, laying facedown on rocks and pavement.



NE#2's BWV showed NE#2 repositioned to CM#1's legs and crossed them. NE#2 handed his handcuffs to NE#1, who handcuffed CM#1. BWV also showed NE#1 standing up, walking away from CM#1, and loudly screaming. BWV showed NE#2 place CM#1 in the recovery position, rolling CM#1's body to his left side. NE#3 advised CM#1 of his *Miranda* rights. Other officers responded to the backyard, assisted CM#1 to his feet, and escorted him to the street.

BWV captured the following events. Officers escorted CM#1 to the front of a patrol car parked on the street. NE#3 double-locked CM#1's handcuffs. NE#2 then searched CM#1 incident to arrest. NE#2 noticed CM#1's palm was bleeding, so NE#2 requested the Seattle Fire Department (SFD) to examine CM#1. An SFD employee arrived and asked CM#1 how he injured his hand. CM#1 said he injured it from the "small rocks." The SFD employee bandaged CM#1's



hand and cleared CM#1 for transport. Throughout this process—from the arrest in the backyard of the blue house to treatment by SFD—CM#1 did not complain about any injuries. NE#2 transported CM#1 to the East Precinct.

WO#1's incident report noted that he spoke to a witness who saw CM#1 before he entered the unoccupied house. WO#1 wrote that the witness saw CM#1 on her deck with what looked "like blood" on his hand.

OPA interviewed all named employees. Their accounts were consistent with the BWVs. OPA asked NE#1 about his outburst after CM#1's arrest. NE#1 said his outburst was not intended to offend or be unprofessional. NE#1 explained that he was relieved that no one was seriously injured, so his scream expressed that relief. NE#1 also said he turned his back toward CM#1 when he screamed. NE#1 said he did not use profanity or derogatory language.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

It was alleged that NE#1 made an unprofessional outburst next to CM#1 after CM#1 was taken into custody.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. SPD Policy 5.001-POL-10. The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." *Id.* Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.*

Here, NE#1 said he was overwhelmed with the situation and relieved no one was seriously injured. NE#1 also said his outburst was not meant to intimidate or disrespect anyone at the scene. NE#1's assertions are corroborated by his actions when he stood up after he arrested CM#1. Notably, BWV showed NE#1 walking away from CM#1 and shouting away from CM#1. NE#1's outburst was not directed at anyone. Moreover, NE#1 did not swear or use derogatory language. NE#1 merely let out a scream. OPA is convinced NE#1's outburst did not undermine public trust in the Seattle Police Department.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #1 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#1 used excessive force when he grabbed CM#1 from a fence, put CM#1 on the ground, and placed CM#1 into handcuffs, which may have caused or exacerbated an injury to CM#1's hand.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary, and proportional. Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve



a law-enforcement objective.” Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” SPD Policy 8.050. Reasonableness must consider that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. *Id.* The policy also lists several factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” *Id.* Lastly, the force used must be proportional to the threat posed to the officer. *Id.*

Here, officers had probable cause to arrest CM#1 for residential burglary, RCW 9A.52.025. Officers instructed CM#1 to come out with his hands up. Instead, CM#1 ran, jumped over at least one fence, and ran through an alleyway to evade officers. CM#1 attempted to scale another fence until NE#1 caught CM#1 and brought him to the ground. BWV showed NE#1 on top of CM#1. Specifically, BWV showed NE#1 using control holds, instructing CM#1 not to resist, and waiting for additional officers to arrive. BWV did not show NE#1 using any excessive force. NE#1’s conduct is more consistent with *de minimis* force, defined as “[p]hysical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury.” SPD Policy 8.050. Using control holds or joint manipulation techniques that do not cause pain is an example of *de minimis* force. *Id.*

In addition, NE#1 likely did not cause the laceration on CM#1’s right hand. Evidence suggests CM#1 was injured before officers arrived at the scene. Before CM#1 entered the unoccupied house, a witness said she saw CM#1 with an injury to his hand that looked “like blood.” Moreover, CM#1’s laceration could have been exacerbated during the chase when he jumped over at least one fence and tried to jump over another. Although CM#1 informed an SFD employee that “small rocks” caused his laceration and BWV showed CM#1 being held down on rocks, the laceration appears inconsistent with a wound caused by “small rocks.” Also notable was CM#1’s reticence about his injury between the arrest and the arrival of the SFD employee. The circumstances suggest that NE#1 did not cause or exacerbate the laceration on CM#1’s right hand.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#2 used excessive force when assisting NE#1 in handcuffing and standing up CM#1, which may have caused or exacerbated an injury to CM#1’s hand.

Here, BWV showed NE#2 assisted NE#1 and NE#3 with the arrest by crossing CM#1’s legs. NE#2 said it was to prevent CM#1 from kicking or using his legs to resist the officers. BWV also showed NE#2 giving his handcuffs to NE#1 so NE#1 could complete the arrest. NE#2’s conduct was consistent with *de minimis* force. BWV did not show NE#2 using any excessive force.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #3 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#3 used excessive force when assisting NE#1 in handcuffing and standing up CM#1, which may have caused or exacerbated an injury to CM#1's hand.

Here, BWV showed NE#3 assisted NE#1 with the arrest by grabbing CM#1's right arm and putting it behind CM#1's back. NE#3's conduct was consistent with *de minimis* force. BWV did not show NE#3 using any excessive force.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**